



PATENT
Customer No. 22,852
Attorney Docket No. 06502.0054-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Ann M. WOLLRATH et al.)	Group Art Unit: 2162
)	
Application No.: 10/015,801)	Examiner: J. Fleurantin
)	
Filed: December 17, 2001)	
)	
For: METHOD AND APPARATUS FOR)	Confirmation No.: 1256
TRANSPORTING BEHAVIOR IN)	
AN EVENT-BASED)	
DISTRIBUTED SYSTEM)	

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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action mailed October 20, 2006. This Request is being filed concurrently with a Notice of Appeal.

I. Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants have met each of the requirements for a pre-appeal brief review of the rejections set forth in an Office Action. The application has been at least twice rejected. Applicants have filed a Notice of Appeal with this Request, and have not yet filed an Appeal Brief. Applicants submit this Pre-Appeal Brief Request for Review that is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005. Therefore, Applicants request review of the Examiner's rejections in the Final Office Action for the following reasons.

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II. Status of the Claims

In the Final Office Action, the Examiner rejected claims 5-9 and 14-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,378,001 to Aditham et al. ("*Aditham*") in view of U.S. Patent No. 6,314,467 to Hirasawa et al. ("*Hirasawa*").

III. The rejection of claims 5-9 and 14-22 under 35 U.S.C. § 103(a) as being unpatentable over *Aditham* in view of *Hirasawa* is improper

Applicants respectfully request that the Board of Examiners reconsider and withdraw the rejection of claims 5-9 and 14-22. A *prima facie* case of obviousness has not been established because, among other things, neither *Aditham* nor *Hirasawa*, taken alone or in combination, teach or suggest each and every element recited by Applicants' claims.

Claim 5 recites a system including, for example:

- a first virtual machine;
- a second virtual machine executing a process that receives, from the first virtual machine, a registration of interest in an event and transmits a message in response to the event, the registration of interest and the message including computer code; and
- a third virtual machine for receiving the message and executing the computer code.

(emphasis added). *Aditham* does not teach or suggest at least these elements. The Examiner states that first program 12-1 of *Aditham* corresponds to the claimed "first virtual machine," second program 12-2 corresponds to the claimed "second virtual machine," and third program 12-3 corresponds to the claimed "third virtual machine" (Office Action at page 3). Even assuming the Examiner's characterization is appropriate, as previously noted in the Amendment filed March 29, 2006 ("Amendment"), *Aditham* does not teach that second program 12-2 transmits any information or message to third program 12-3 (Amendment at page 7).

Hirasawa does not cure the deficiencies of *Aditham*. Fig. 1 of *Hirasawa* depicts data receiving equipment 20-1 that receives data from data sending equipment 10-1. The sending and receiving equipment does not constitute a first, second, and third virtual machine (Amendment at pages 7-9). Therefore, *Hirasawa* also does not teach or suggest "a second virtual machine executing a process that receives, from the first virtual machine, a registration of interest in an event and transmits a message in

response to the event,” and “a third virtual machine for receiving the message and executing the computer code,” as recited in claim 5.

Applicants also note that the Examiner, in the Response to Arguments section of the Final Office Action, did not address Applicants explanation of why the teachings of the prior art cannot constitute the claimed “first virtual machine,” “second virtual machine,” and “third virtual machine.” Because the cited references fail to teach or suggest each and every element of claim 5 and dependent claims 6-9 and 14-17, no *prima facie* case of obviousness has been established with respect to these claims. Independent claims 18 and 20, while of different scope, recite elements similar to those in claim 5 and are thus allowable for at least the same reasons discussed in regard to claim 5. Applicants request that the Board of Examiners withdraw these rejections.

Claim 19 recites a method including, for example:

receiving a registration of interest in an event, the registration including computer code;
transmitting a message including the computer code in response to the event; and
executing the computer code transmitted in the message.

(emphasis added). The Examiner cites col. 9, lines 3-5 of *Aditham* as allegedly teaching the claimed “receiving a registration of interest in an event,” and “transmitting a message including the computer code in response to the event” (Office Action at pages 4-5). This is not correct.

In *Aditham*, “the registered interest for each program in the session 18 is checked to determine programs which want to receive messages of the message 20 type” (col. 9, lines 3-5). The registered interest, in *Aditham*, is in session 18. The Examiner states that “messages [are] transmitted from the session object to the programs” (Office Action at page 4). Therefore, according to the Examiner’s statements, session 18 transmits a message in response to the session itself. However, session 18 does not constitute the claimed “event,” and the message is not transmitted in response to the session.

The Examiner correctly states that *Aditham* does not teach “executing the computer code transmitted in the message” (Office Action at page 5). *Hirasawa* does not cure the deficiencies of *Aditham*. In *Hirasawa*, “[w]hen the data receiving equipment

20 receives a data message, the data execution function 204 is called through the message selective receiving function 201" (col. 21, lines 32-34). Even assuming that *Hirasawa* discloses "executing," which Applicants do not concede, the data message is not transmitted "in response to the event" once "a registration of interest in an event" is received. Therefore, Applicants request that the Board of Examiners withdraw the rejection of claim 19.

Regarding the rejection of claim 21, the Examiner copied the exact rejection of claims 5 and 18 in rejecting claim 21 (Office Action at page 6). However, claim 21 includes additional recitations not found in claims 5 and 18. For example, claim 21 includes the recitation of: "whereby the first entity is not aware of functions available to the entity provided with the notification due to the closure of the registration object." Neither *Aditham* nor *Hirasawa* disclose this element.

37 C.F.R. § 1.104(c) requires the Examiner to provide more than merely stating a reference meets the limitations of a rejected claim. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. 37 C.F.R. § 1.104(c)(2). In this case, the references asserted by the Examiner are complex and describe many different embodiments. Moreover, the Examiner improperly ignores recitations of claim 21. The Examiner's rejection of claim 21 under 35 U.S.C. § 103(a) does not meet the requirements of 37 C.F.R. § 1.104. Further, to establish *prima facie* obviousness under 35 U.S.C. § 103(a), the Examiner must show, *inter alia*, that the applied references, taken alone or in combination, teach or suggest each and every element recited in the claim. M.P.E.P. § 2143. Here, by ignoring the recitations of claim 21, the Examiner has failed to show how the cited art teaches or suggests the elements of this claim. As a result, the rejection of claim 21 does not meet the requirements of at least M.P.E.P. § 2143 and 35 U.S.C. § 103(a), and thus is improper.

The same legal deficiencies are found in the rejection of claim 22. The Examiner copied the exact rejection of claims 5 and 18 in rejecting claim 22 (Office Action at pages 6-7). However, claim 22 includes recitations not found in claims 5 and 18.

Claim 22 recites a computer object including, for example:

the method and parameter data are adapted to be passed to said machine as part of an event registration message,

the event registration message further includes event information identifying the event of interest and software information identifying a software entity to be notified upon occurrence of the event, and upon occurrence of the event, the method and parameter data execute to pass at least one of the computer object and reference to the computer object to the software entity.

(emphasis added). In *Aditham*, “the registered interest for each program in the session 18 is checked to determine programs which want to receive messages of the message 20 type” (col. 9, lines 3-5). *Aditham* does not teach or suggest “an event registration message,” or an event registration message that “includes event information identifying the event of interest and software information identifying a software entity to be notified upon occurrence of the event,” as further recited in claim 22.

Hirasawa does not cure the deficiencies of *Aditham*. Even assuming that *Hirasawa* discloses the claimed “execute,” which Applicants do not concede, the data message does not constitute the claimed “method and parameter data.” Neither data receiving equipment 20 nor data execution function 204 “execute to pass at least one of the computer object and reference to the computer object to the software entity,” as further recited in claim 22. Applicants request that the Board of Examiners withdraw the rejection of claim 22.

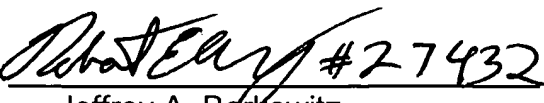
IV. Conclusion

Because the Examiner’s rejections of claims 5-9 and 14-22 include legal deficiencies, Applicants are entitled to a pre-appeal brief review of the Final Office Action. Based on the foregoing arguments, Applicants respectfully request that the rejection of these claims be withdrawn and the claims allowed.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 19, 2007

By  #27432
for Jeffrey A. Berkowitz
Reg. No. 36,743

Doc Code: AP.PRE.REQ



PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

06502.0054-01

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Application Number

10/015,801

Filed

December 17, 2001

First Named Inventor

Ann M. Wollrath

Art Unit

2162

Examiner

J. Fleurantin

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.


I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

☒ attorney or agent of record.
Registration number 36,743

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____


Signature

Jeffrey A. Berkowitz
Typed or printed name

571.203.2710
Telephone number

January 19, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 form is submitted.

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